

DOCKET NO.: 245821US90/phh



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

Masayuki KOSHINO, et al.

SERIAL NO: 10/720,155

GROUP: 2681

FILED: November 25, 2003

EXAMINER:

FOR: RADIO ACCESS NETWORK SYSTEM, RADIO ACCESS METHOD, AND
CONTROL APPARATUS

LETTER

Mail Stop DD
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith is a People's Republic of China Office Action for the Examiner's consideration. The reference cited therein has been previously filed on May 19, 2004.

Respectfully Submitted,

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THE PATENT OFFICE OF THE PEOPLE'S REPUBLIC OF CHINA



Applicant	NTT DOCOMO, INC.	Issue Date November 11, 2005
Agent	Dragon International Patent Office	
Application No.	2003101154456	
Title of Invention	RADIO ACCESS NETWORK SYSTEM, RADIO ACCESS METHOD, AND CONTROL APPARATUS	

THE NOTIFICATION OF THE FIRST OFFICE ACTION

1. ☒ In accordance with the Request for substantive examination, the examiner has made the examination on the above patent application based on the provision of paragraph 1, Article 35 of the PRC Patent Law.

☐ The Patent Office itself has decided to make a substantive examination for the above cited patent application based on the provision of paragraph 2, Article 35 of the PRC Patent Law.

2. ☒ The applicant requested to designate the filing date of
JP in the Patent Office of November 26, 2002 as the priority date;
 in the Patent Office of as the priority date;
 in the Patent Office of as the priority date;

☒ The applicant had filed a copy of the priority application proved by the patent office which receives the priority application.

☐

3. ☐ Amendment was filed on by the applicant.

☐ The applicant submitted the amended text is not in conformity with Article 33 of PRC Patent Law and is unacceptable:

☐ The amended text submitted according to Article 28 or 41 of the PCT.

☐

4. ☒ Examination is made based on the Chinese translation of the original filing document.

☐ Examination is made based on the following documentations.

☐ page(s) of description based on the Chinese translation of the original filing document.

Page(s) of description based on the Chinese translation of attachment of international Preliminary Examination Report.

Page(s) of description based on the amended documents that are submitted in accordance with Article 28 or 41 of the PCT.

Page(s) of description based on the amended documents that are submitted in accordance with Article 51 of the PRC Patent Law.

☐ Item(s) of claims based on the Chinese translation of the original filing document.

☐ Item(s) of claims based on the Chinese translation of the amended documents that are submitted in accordance with Article 19 of the PCT.

Item(s) of claims based on the Chinese translation of attachment of international

Preliminary Examination Report.

Item(s) _____ of claims based on the amended documents that are submitted in accordance with Article 28 or 41 of the PCT.

Item(s) _____ of claims based on the amended documents that are submitted in accordance with Article 51 of the PRC Patent Law.

☐ page(s) _____ of drawings based on the Chinese translation of the original filing document.

Page(s) _____ of drawings based on the Chinese translation of attachment of international Preliminary Examination Report.

Page(s) _____ of drawings based on the amended documents that are submitted in accordance with Article 28 or 41 of the PCT.

Page(s) _____ of drawings based on the amended documents that are submitted in accordance with Article 51 of the PRC Patent Law.

☐

5. ☒ The notification is made under the search for the patent ability.

☒ The following reference material has been cited in this notification (its serial number will be referred to in the following procedure);

Serial Number	Number or Title of Reference Material	Publication Date (or Filing Date of A Conflict Patent Application)
1	WO0186885A1	November 15, 2001

6. The conclusion of the examination;

☐ In regard to the description;

☐ The subject matter of the present application is not accepted based on the Article 5 of the PRC Patent Law.

☐ The presentation of the description is not in conformity with the provision of Paragraph 3, Article 26 of the PRC Patent Law.

☐ The presentation of the description is not in conformity with the provision of Article 33 of the PRC Patent Law.

☐ The presentation of the specification is not in conformity with the provision of Rule 18 of the Implementing Regulations of the PRC Patent Law.

☒ In regard to the Claims:

☒ Claims 1-4 can not be allowed owing to lack of novelty based on the provision of paragraph 2, Article 22 of the PRC Patent Law.

☒ Claims 5-7 can not be allowed owing to lack of inventiveness based on the provision of paragraph 3, Article 22 of the PRC Patent Law.

☐ Claims _____ do not belong to the definition of invention based on the provision of paragraph 1, Rule 2 of the Implementing Regulations of the PRC Patent Law.

- ☐ Claims _____ can not be allowed beyond the scope of the protection based on the Article 25 of the PRC Patent Law.
- ☐ Claims ____ can not be allowed based on the provision of paragraph 4, Article 26 of the PRC Patent Law.
- ☐ Claims ____ can not be allowed based on the provision of paragraph 1, Article 31 of the PRC Patent Law.
- ☐ Claims____ can not be allowed based on the provision of Rules 20 of the Implementing Regulations of the PRC Patent Law.
- ☐ Claim____ can not be allowed based on the provision of Rules 21 of the Implementing Regulations of the PRC Patent Law.
- ☐ Claims_____ can not be allowed based on the provision of Rules 22 of the Implementing Regulations of the PRC Patent Law.
- ☐ Claims _____ can not be allowed based on the provision of Article 9 of the PRC Patent Law.
- ☐ Claims _____ can not be allowed based on the provision of paragraph 1, Rule 13 of the Implementing Regulations of the PRC Patent Law.

The explanation of the conclusion is given in the attachment sheet in details

7. According to the above conclusion, it is considered that

- ☐ the applicant should amend the application documents based on the request in the Attachment Sheet.
- ☐ the applicant should state the reason on which the application can be accepted and amend the part that is indicated not to be conformity with the requirement, otherwise the application will be rejected.
- ☒ No subject matter in the application is accepted, said application will be rejected if the applicant does not make a statement or fail to make a statement.

8. The applicant is drawn attention to that

- (1) In accordance with the provisions in Article 37 of the PRC Patent Law, the applicant shall submit the observation within **FOUR** months from the date of receiving this notification. If the applicant, without any justified reason, fails to reply within the time limit, the application shall be deemed to have been withdrawn.
- (2) The applicant shall make amendments to what is not in conformity with the provisions in the text of this notification. The amended text shall be furnished in duplicate. The formality of the document should be in conformity with the relative provisions in the Guidebook for Examination.
- (3) The applicant and/or his attorney could not go to the PRC Patent Office to meet the examiner if no appointment is made.
- (4) **Any response and/or amended specification must be mailed or sent by hand to the receiving Department of the PRC Patent Office. Any documents that are not sent to the Receiving Department do not have legal force.**

9. The text of notification embraces 1 page(s), along with the enclosures herein:

- ☐ 1 copy of the cited reference is enclosed in pages of 27 .

Text of the Notification of the First Office Action

Claim 1 seeks for protection for a radio access controller. However, reference 1 (WO0186885A1) belonging to the same technical field as the present invention, discloses a control apparatus for transferring packet in a network on lines 8-10 on page 1 and lines 17-19 on page 13 in the specification, comprising: a device for determining the type of incoming stream (equivalent to the priority information setter of claim 1), disclosed on lines 21-23 on page 13 in the specification; a classifying device, also the priority (equivalent to the packet processor of claim 1), for classifying and marks the information according the transmission state, disclosed on line 30 on page 4 to line 26 on page 5 in the specification, claim 1 and Fig. 7; and SGSN for setting transfer path (equivalent to the transfer path setter of claim 1), disclosed on lines 30-34 on page 7 in the specification and Fig.1.. Moreover, the communication system of reference 1 impliedly discloses that the radio access network system has a base station and a control apparatus. It can be seen that reference 1 has disclosed all technical features of claim 1, and both have essentially same technical solutions, solve the same technical problem and achieve the same effect. Therefore, claim 1 lacks of novelty prescribed by the provision of Paragraph 2, Article 22 of the PRC Patent Law in view of reference 1.

Claim 2 is a method claim corresponding to product claim 1, and its technical features correspond to those of claim 1 respectively. Based on the same reasons that claim 1 lacks of novelty, claim 2 is not in conformity with the provision of Paragraph 2, Article 22 of the PRC Patent Law either.

Claim 3 seeks for protection for a control apparatus, but the defined priority information setter and packet processor are just the technical features of claim 1. In addition, reference 1 further discloses that the

device is the control device used for transferring packet in the network. Therefore, reference 1 has disclosed all technical features of claim 3, and both have essentially same technical solutions, solve the same technical problem and achieve the same effect. Claim 3 thus is not in conformity with the provision of Paragraph 2, Article 22 of the PRC Patent Law in view of reference 1.



Claims 4-7 are dependent claims of claim 3. The additional technical features of claim 4 are disclosed by reference 1 as indicated on lines 15-17 on page 9 in the specification, and claim 4 thus lacks of novelty prescribed by the provision of Paragraph 2, Article 22 of the PRC Patent Law in view of reference 1. The technical features of said field information notifier in claim 1 and adding the priority in accordance with the notified information in claim 6 are technical means commonly used by one skilled in the art. The additional technical features of claim 7 are disclosed in reference 1 as shown on lines 1-3 on page 4 and lines 12-15 on page 6 in the specification. Therefore, claims 5-7 do not have prominent substantive features or represent a notable progress in view of reference 1 and are not in conformity with the provision of Paragraph 3, Article 22 of the PRC Patent Law.

Based on the above reasons, all claims of the present invention are not in conformity with the provision of Article 22 of the PRC Patent Law and can not be allowed for a patent. If the applicant can not provide sufficient reasons to prove that the present application has novelty and inventiveness within the due time specified in the notification, the present applicant will be rejected.



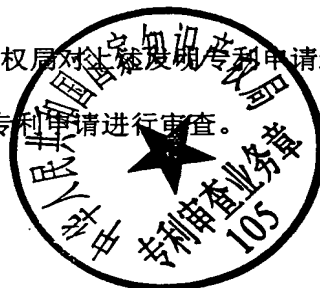
中华人民共和国国家知识产权局

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邮政编码: 100029 北京市朝阳区裕民路 12 号中国国际科技会展中心 A1210 号 北京银龙知识产权代理有限公司 郝庆芬		发文日期 
申请号: 2003101154456		
申请人: 株式会社 NTT 都科摩		
发明创造名称: 无线接入网络系统、无线接入方法、及控制设备		

第一次审查意见通知书

- ☒ 应申请人提出的实审请求, 根据专利法第 35 条第 1 款的规定, 国家知识产权局对~~上述发明~~专利申请进行实质审查。
☐ 根据专利法第 35 条第 2 款的规定, 国家知识产权局决定自行对上述发明专利申请进行审查。
- ☒ 申请人要求以~~其在~~在:
JP- 专利局的申请日 2002 年 11 月 26 日为优先权日,
专利局的申请日 年 月 日为优先权日,
专利局的申请日 年 月 日为优先权日,
专利局的申请日 年 月 日为优先权日,
专利局的申请日 年 月 日为优先权日。
☒ 申请人已经提交了经原申请国受理机关证明的第一次提出的在先申请文件的副本。
☐ 申请人尚未提交经原申请国受理机关证明的第一次提出的在先申请文件的副本, 根据专利法第 30 条的规定视为未提出优先权要求。
- ☐ 经审查, 申请人于:
年 月 日提交的 不符合实施细则第 51 条的规定;
年 月 日提交的 不符合专利法第 33 条的规定;
年 月 日提交的
- 审查针对的申请文件:
☒ 原始申请文件。 ☐ 审查是针对下述申请文件的
申请日提交的原始申请文件的权利要求第 项、说明书第 页、附图第 页;
年 月 日提交的权利要求第 项、说明书第 页、附图第 页;
年 月 日提交的权利要求第 项、说明书第 页、附图第 页;
年 月 日提交的权利要求第 项、说明书第 页、附图第 页;
年 月 日提交的说明书摘要, 年 月 日提交的摘要附图。
- ☐ 本通知书是在未进行检索的情况下作出的。
☒ 本通知书是在进行了检索的情况下作出的。
☒ 本通知书引用下述对比文献(其编号在今后的审查过程中继续沿用):
编号 文件号或名称 公开日期 (或抵触申请的申请日)
1 W00186885A1 2001-11-15
- 审查的结论性意见:
☐ 关于说明书:
☐ 申请的内容属于专利法第 5 条规定的不授予专利权的范围。



- ☐说明书不符合专利法第 26 条第 3 款的规定。
☐说明书不符合专利法第 33 条的规定。
☐说明书的撰写不符合实施细则第 18 条的规定。

☐

☒关于权利要求书:

- ☒权利要求 1-4 不具备专利法第 22 条第 2 款规定的新颖性。
☒权利要求 5-7 不具备专利法第 22 条第 3 款规定的创造性。
☐权利要求 不具备专利法第 22 条第 4 款规定的实用性。
☐权利要求 属于专利法第 25 条规定的不授予专利权的范围。
☐权利要求 不符合专利法第 26 条第 4 款的规定。
☐权利要求 不符合专利法第 31 条第 1 款的规定。
☐权利要求 不符合专利法第 33 条的规定。
☐权利要求 不符合专利法实施细则第 2 条第 1 款关于发明的定义。
☐权利要求 不符合专利法实施细则第 13 条第 1 款的规定。
☐权利要求 不符合专利法实施细则第 20 条的规定。
☐权利要求 不符合专利法实施细则第 21 条的规定。
☐权利要求 不符合专利法实施细则第 22 条的规定。
☐权利要求 不符合专利法实施细则第 23 条的规定。

☐

上述结论性意见的具体分析见本通知书的正文部分。

7. 基于上述结论性意见, 审查员认为:

- ☐申请人应按照通知书正文部分提出的要求, 对申请文件进行修改。
☐申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由, 并对通知书正文部分中指出的不符合规定之处进行修改, 否则将不能授予专利权。
☒专利申请中没有可以被授予专利权的实质性内容, 如果申请人没有陈述理由或者陈述理由不充分, 其申请将被驳回。

☐

8. 申请人应注意下述事项:

- (1) 根据专利法第 37 条的规定, 申请人应在收到本通知书之日起的肆个月内陈述意见, 如果申请人无正当理由逾期不答复, 其申请将被视为撤回。
(2) 申请人对其申请的修改应符合专利法第 33 条的规定, 修改文本应一式两份, 其格式应符合审查指南的有关规定。
(3) 申请人的意见陈述书和/或修改文本应邮寄或递交国家知识产权局专利局受理处, 凡未邮寄或递交给受理处的文件不具备法律效力。
(4) 未经预约, 申请人和/或代理人不得前来国家知识产权局专利局与审查员举行会晤。

9. 本通知书正文部分共有 1 页, 并附有下列附件:

- ☒引用的对比文件的复印件共 1 份 27 页。 ☐

审查员 邢欣欣(9346)
2005 年 10 月 25 日

审查部门 审查协作中心



第一次审查意见通知书正文

权利要求 1 请求保护一种无线接入网络系统，与本发明技术领域相同的对比文件 1（W00186885A1）说明书第 1 页第 8-10 行第 13 页第 17-19 行中公开了用于在网络中传送包的控制装置，其包含如下装置，说明书第 13 页 21-23 行公开的用于决定即将到达的信息流类型的装置（相当于权利要求 1 中的优先权信息设置器）；说明书第 4 页 30 行至第 5 页 26 行、权利要求 1、附图 7 中公开的根据传输状态也就是优先权对信息进行分类和标记的分类装置（相当于权利要求 1 中的包处理器）；说明书第 7 页 30-34 行、附图 1 中公开的用于设置传输路径的 SGSN（相当于权利要求 1 汇总的传输路径设置器），对比文件 1 的通信系统还隐含公开了无线接入网络中具有基站和控制设备；由此可见，对比文件 1 披露了权利要求 1 的全部技术特征，其与权利要求 1 的技术方案实质相同，解决了相同的技术问题并具有同样的技术效果，因此权利要求 1 相对于对比文件 1 不符合专利法第二十二第二款有关新颖性的规定。

权利要求 2 是与产品权利要求 1 相对应的方法权利要求，其技术特征与权利要求 1 的技术特征一一对应，因此基于与权利要求 1 不具有新颖性相类似的理由，权利要求 2 也不符合专利法第二十二第二款的规定。

权利要求 3 请求保护一种控制设备，其具有的优先权信息设置器和包处理器与权利要求 1 中上述技术特征完全相同，此外对比文件 1 还明确披露了上述装置是用于网络中传送包的控制装置，因此权利要求 3 的技术方案也已被对比文件 1 披露，二者的技术方案实质相同，解决了相同的技术问题并具有同样的技术效果，权利要求 3 相对于对比文件 1 也不符合专利法第二十二第二款的规定。

权利要求 4-7 为权利要求 3 的从属权利要求，权利要求 4 的附加技术特征已被对比文件 1 说明书第 9 页 15-17 行明确披露，因此权利要求 4 相对于对比文件 1 不符合专利法第二十二第二款有关新颖性的规定；权利要求 5 中的字段信息通知器以及权利要求 6 中根据字段信息添加优先权的技术特征均属于本领域技术人员常用的技术手段；权利要求 7 的附加技术特征已由对比文件 1 说明书第 4 页 1-3 行、第 6 页 12-15 行披露；权利要求 5-7 相对于对比文件 1 不具备突出的实质性特点和显著的进步，不符合专利法第二十二第三款的规定。

综上所述，本发明专利申请的权利要求不符合专利法第二十二条的规定，是不能被授予专利权的，如果申请人不能在指定期限内提出申请文件具有新颖性、创造性的充分理由，本发明专利申请将被驳回。